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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,057	11/02/2001	Koen Hendrik Johan Vrielink	NL 000571	4904

24737 7590 10/10/2007

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

FLETCHER, JAMES A

ART UNIT	PAPER NUMBER
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2621

MAIL DATE	DELIVERY MODE
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10/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/003,057	Applicant(s) VRIELINK, KOEN HENDRIK JOHAN	
	Examiner James A. Fletcher	Art Unit 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-23 and 25-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 17-22 is/are allowed.
- 6) ☒ Claim(s) 10-16, 23 and 25-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 19 July 2007 has been entered.

Claim Objections

2. **Claim 10** recites the limitations "the user" in line 3. There is insufficient antecedent basis for these limitations in the claim.
3. **Claim 10** recites the limitation "the end user" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wysong (3,922,607), and further in view of Armstrong (7,017,173).

Regarding claim 10, Wysong discloses a method of reproducing audio and/or video information transmitted in parallel in a plurality of channels, the information in each channel being divided into primary and secondary information (Col 3, lines 1-5 "one subcarrier is modulated with substantially continuous program material, such as background music, and another subcarrier is modulated with sequential messages, each message having associated therewith [sic] a coded address signal"), wherein a user can select one of the channels and the primary information of the selected channel is reproduced (Col 6, lines 62-64 "coincidence gates 120 which are preprogrammed with an address number to be compared to the transmitted address number"), the secondary information being reproduced parallel to or instead of the primary information during the information mode (Col 2, lines 11-14 "The decoder circuit controls the operation of the switching circuit and therefore controls which program material is directed to the audio amplifier")

Wysong discloses a mode where the selected program terminates after a time (Col 1, lines 65-68 "The second subcarrier also contains a signal which causes the receiver to revert back to normal programming once a particular message has concluded"), but is silent on the mode being initiated by an end user.

Armstrong et al teach the selection of commercial message channels by an end user (Col 12, lines 59-62 "the requested advertisement stream is presented to the user.

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Upon concluding the presentation of the requested advertisement stream, the method 500 proceeds to step 512 to wait for the next user command").

As taught by Armstrong, end user program selection, including that of commercial messages, is well known, and provides the end user with information particularly suited to that user's needs and wants.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wysong in order to include a user-initiated mode.

Regarding claim 11, Wysong discloses the secondary information is transmitted parallel to the primary information (Col 1, line 51 "Two subcarriers are used").

Regarding claim 12, Wysong discloses a method of transmitting programs broadcast by a radio transmitter (Col 2, line 68 "an improved broadcasting system").

Regarding claim 13, Wysong discloses the secondary information comprising commercials (Col 1, lines 60-63 "a second subcarrier generator, at a different frequency, is modulated with a second program, such as commercial messages").

Regarding claim 14, Wysong discloses a method of transmitting and receiving audio information that is divided into primary, secondary, and tertiary programs, the secondary programs are transmitted in an alternating sequence and the tertiary programs are transmitted parallel to those programs (Col 3, lines 1-5 "one subcarrier is modulated with substantially continuous program material, such as background music, and another subcarrier is modulated with sequential messages, each message having associated therewith [sic] a coded address signal").

Regarding claim 15, Wysong is silent on digitally encoding of the information.

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The Examiner takes official notice that digital encoding of audio and video information is notoriously well known, commercially available, and widely used, providing users and providers with a robust, high quality, reliable means of transmitting information.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wysong to digitally encode the program information.

6. Claims 16 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wysong (3,922,607) in further view of Motorola ("Integrated Datacasting Solutions for Digital Television").

Regarding claims 16 and 23, Wysong discloses a method of transmitting and receiving audio information that is divided into primary, secondary, and tertiary programs, the secondary programs are transmitted in an alternating sequence and the tertiary programs are transmitted parallel to those programs (Col 3, lines 1-5 "one subcarrier is modulated with substantially continuous program material, such as background music, and another subcarrier is modulated with sequential messages, each message having associated therewith [sic] a coded address signal").

Wysong is silent regarding storing received programs in a buffer.

Motorola teaches the transmission of auxiliary data for later use in a non-real-time method (pages 9 and 10, regarding the opportunistic replacement of null packets with datacast files).

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As taught by Motorola, the transmission of auxiliary data for later use by means of a buffer in the receiver in a time-expanded mode is well known, allowing the provider the opportunity to send data without expanding the bandwidth required to the level necessary for real time transmissions.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wysong in order to provide an expanded time transmission of the tertiary program data.

7. Claims 25-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wysong and Motorola as applied to claim 23 above, and further in view of Ebisawa (5,886,731).

Regarding claim 25, Wysong discloses reproducing the three programs (Col 2, lines 1-4).

Wysong is silent regarding a pause mode.

Ebisawa teaches switching among normal, pause, and resume modes wherein, when in the normal mode, the primary and secondary programs are reproduced as transmitted, and when in the pause mode, reproduction of the primary program is interrupted, tertiary programs are reproduced instead, and any further received primary programs are stored in a buffer (Col 10, lines 18-19 "the storing unit 207 interrupts the output of the program A again and outputs the data subsequent to the CM1 for 30 seconds"), and

- when in the resume mode, storage of received primary programs in the buffer is continued (Col 10, lines 23-24 "The AV data of the program A received during this time is stored in the storing unit 207"), reproduction of primary programs is resumed from the instant at which it was interrupted (Col 10, lines 18-26 "The AV data of the program A received during this time is stored in the storing unit 207. Then, when the time becomes 0:30:30, the storing unit 207 starts the output of the AV data of the program A received and stored one minute before this time"), primary programs being retrieved from the buffer while any interposed secondary programs are omitted from reproduction (Col 10, lines 23-24 "The AV data of the program A received during this time is stored in the storing unit 207"), and
- when the resume mode finishes with a return to the normal mode if the primary program currently reproduced from the buffer ends during the transmission of the secondary program that follows the primary program currently reproduced from the buffer in the transmission sequence (Col 10, lines 18-26 "The AV data of the program A received during this time is stored in the storing unit 207. Then, when the time becomes 0:30:30, the storing unit 207 starts the output of the AV data of the program A received and stored one minute before this time").

As taught by Ebisawa, storage of normal program material in a local storage medium during insertion of commercial messages is well known, and allows the

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program vendor to provide the customer with a complete program, in spite of additional commercial data being inserted into the program stream.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination to allow the storage of normal program material for later playback after the completion of inserted commercial messages.

Regarding claims 26 and 29, Wysong is silent regarding the storage of programs and reproduction of those stored programs after the completion of commercial messages.

Ebisawa teaches the storage of program data received while an additional commercial message is being presented for presentation after the completion of the commercial message (Col 9, lines 27-38).

As taught by Ebisawa, the storage of program material transmitted during the presentation of a commercial message is well known, providing the user and the programmer with the ability to have the entire program presented to the user without regard for the number of commercial messages presented to the user.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wysong in order to provide for the storage of program material for presentation to the user at the completion of the inserted commercial message.

Regarding claim 30, Wysong discloses a method of transmitting programs broadcast by a radio transmitter (Col 2, line 68 "an improved broadcasting system").

Regarding claim 27, Wysong discloses a method of transmitting programs wherein the secondary programs are not stored in a buffer (Col 4, lines 27-33).

Regarding claim 28, Wysong discloses a method of transmitting programs comprising designating parts of at least one of the buffer and the memory as free as soon as the programs stored therein have been reproduced (Col 10, lines 33-35, lines 64-67, and Col 11, lines 12-15). By only providing adequate storage for the total length of the commercials while storing program data as the commercials are being presented to the user, it is clear that the storage used for commercials is being made available as soon as the commercial data is presented to the user.

Regarding claim 31, Wysong discloses a method of transmitting programs that comprise commercials (Col 1, lines 60-63 "a second subcarrier generator, at a different frequency, is modulated with a second program, such as commercial messages").

Allowable Subject Matter

8. Claims 17-22 are allowed for reasons of record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Fletcher whose telephone number is (571) 272-7377. The examiner can normally be reached on 7:45-5:45 M-Th, first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JAF

18 September 2007

A handwritten signature in black ink, appearing to read 'J. Miller', with a long horizontal line extending to the right.

JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600